REMARKS

In the previous response filed December 14, 2006, Applicants revised the claims to feature treatments comprising the use of "a gene encoding IL-10." This is consistent with the election of "IL-10" as the "protein species" to be examined in response to Requirements for election of a "protein species" and a "vector species" mailed August 9, 2005.

Despite the above facts, the Advisory Action mailed April 3, 2007 alleges that

> "No such specific claiming of [IL-10 related] treatments was previously presented by Applicant in the history of this application. Further the previous rejections never directly addressed the scopes of these treatment protocols."

The above quoted statements are clearly in error because the election of "IL-10" as one of two required species necessarily means that the search and examination of the claims must have included this elected subject matter.

Moreover, the prosecution history of the instant application includes an Office Action mailed November 21, 2005, which states that the "Examiner found no art on the claims … and as such, the elections of species are withdrawn" (see page 2 of that Action).

In light of this statement, the pending claims on November 21, 2005 must have been searched and examined to the extent that they encompassed the IL-10 species as well as the other "protein" and "vector" species encompassed by the claims. Otherwise, the unequivocal statement of "no art on the claims" could not have been made.

Therefore, Applicants respectfully submit that the revisions to the claims filed December 14, 2006 are proper and may be entered without raising any issue of "new matter."

Respectfully submitted,

JHK Law

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